

## It was my idea

By JEFFREY M. HARRIS  
*How the Internet is changing the way we do business*

IN THE offline world, this would be a strange market indeed. Buyers attach money to a board, along with a note stating what they want to buy for the sum. Later, sellers come along and have a look. If they like an offer, they take the money and deliver the goods.

This sort of reverse auction has made Priceline.com, which went online with much fanfare in April, one of the more interesting airline-ticket bidding services on the Internet. On Tuesday, the Connecticut-based company again caused a stir, this time by earning a patent for its business model. If more such patents are awarded and upheld, business on the Internet could suffer.

The patent, No. 5,794,207, covers so-called "bilateral buyer-driven commerce". In Priceline's service, consumers specify a round-trip destination, the date of travel and the price they are willing to pay—and back up the offer with a credit card. Priceline lets them know by e-mail whether any airline has accepted the bid.

Patents on business methods used to be a rarity, because it seemed legally preposterous to claim ownership of a way of doing business. But last month, the Court of Appeals for the District of Columbia settled the issue, by ruling that business models are generally patentable if they are unique—just like any other invention that is "new and useful". In 1996, the US Patent and Trademark Office updated its guidelines to allow more such patents to be granted, the court noted. The reason is that, in the electronic world, it is increasingly difficult to distinguish between the technology of a website and the way it does business.

Priceline is hoping that it will be able to make a lot of money from licensing its novel auction idea to other Internet firms such as Yahoo!, or even to trade associations that want to help their members sell excess inventory. It won't be easy, however, to enforce its patent against the legal firepower of firms like Microsoft and AOL. But if Priceline succeeds, it is certain that other Internet companies will try to do the same.

Is this a good development for electronic commerce? In some ways it may be. Patents on business models would certainly help to solve one of the main problems plaguing Internet companies trying to establish themselves—the instant imitation of their idea if it turns out to be successful. On the other hand, it could spark an ugly patent war over electronic commerce. A warning shot has already been fired by a New Jersey Internet firm called E-Data. It has sued dozens of companies, claiming to have patented the very idea of selling computer software and other electronic goods over a computer network.

It is unlikely that E-Data will get very far in its quest. A sceptical federal judge told the company in May that it was greatly stretching the terms of its original patent, awarded in 1983, which covered the downloading and sale of data to users in a retail-store kiosk. Even in the world's most legalistic country, such broad attempts to restrict business on the Internet are bound to fail.